

COOK COUNTY SHERRIFF'S MERIT BOARD

In the Matter of:

DEPUTY SHERIFF
CESAR VALDEZ

EMPLOYEE #
STAR #10698

)
)
) Docket No. 1753
)
)
)

DECISION

This matter coming on to be heard, by hearing officer Vincent T. Winters, pursuant to notice, the Cook County Sheriff's Merit Board finds as follows:

The Respondent, Cesar Valdez, was appointed a Cook County Deputy Sheriff on October 20, 1997.

1. Respondent's position as an employee as a Cook County Deputy Sheriff involves duties and responsibilities to the public; and
2. Each member of the Cook County Sheriff's Merit Board, hereinafter "Board", has been duly appointed to serve as a member of the Board pursuant to confirmation by the Cook County Board of Commissioners, State of Illinois, to sit for a stated term; and
3. The Board has jurisdiction of the subject matter over this proceeding as well as the parties in accordance with Chapter 55 of the Illinois Compiled Statutes; and
4. Respondent was personally served with a copy of the Complaint against him as well as a Notice of Hearing and appeared before the Board to originally contest the charges contained in the Complaint with counsel as well as appearing for the various hearing dates, status and ultimately trial.
5. The Board has heard the evidence presented by the Sheriff and the Respondent and has evaluated the credibility of the witnesses and supporting evidence. After considering the evidence, the Board finds as follows:

Background

By complaint dated March 13, 2014, Petitioner sought termination of Respondent, alleging that Respondent did violate certain General Orders and that such action is in violation of Rules and Regulations and General Orders of the Cook County Sheriff's Court Services Department and the Cook County Sheriff's Merit Board.

After the case was continued from time to time, and discovery completed, it was called for a formal hearing on June 30, 2014. At the hearing, court reporter being present, all witnesses sworn under oath, testimony was taken from witnesses called by the Sheriff as well as testimony from the Respondent and witnesses called on his behalf. Documents were introduced by Petitioner and Respondent and received into evidence. The Petitioner and Respondent made closing arguments addressing the issues in the hearing.

Issues Presented:

The Respondent was charged with violations of the Rules and Regulations and General Orders of the Cook County Sheriff's Court Services Department, more specifically:

SHERIFF'S ORDER 11.2.20.0 (effective date January 25, 2013)
RULES OF CONDUCT

II. POLICY

The CCSO serves the citizens of Cook County by performing law enforcement functions in a professional manner, and it is to these citizens that the CCSO is ultimately responsible. Employees of the CCSO shall conduct themselves in a professional and ethical manner both on and off duty. Employees shall not engage in activities that reflect unfavorably on the CCSO but shall instead serve to further the mission of the service.

III. APPLICABILITY

This order is applicable to all employees of the CCSO and is for strict compliance. Any violation of this Sheriff's Order may result in disciplinary action up to and including termination. Any conflicts with existing directives shall be resolved in favor of this order.

VI. RULES AND REGULATIONS FOR ALL SWORN AND CIVILIAN CCSO EMPLOYEES

B. Conduct on and off duty.

CCSO employees shall:

1. Maintain a professional demeanor while on duty and will not engage in off-duty behavior that would reflect negatively on the CCSO.
2. Conduct themselves on and off-duty in such a manner to reflect favorably on the CCSO. Employees, whether on or off-duty, will not engage in conduct which discredits the integrity of the CCSO, its employees, the employee him/herself, or which impairs the operations of the CCSO. Such actions shall constitute conduct unbecoming of an officer or employee of the CCSO.
12. Not engage in any conduct that constitutes discrimination or harassment as defined in CCSO directives regarding discrimination, harassment, sexual harassment, and hostile work environment.

C. Conduct towards superiors, associates, and subordinates.

CCSO employees shall:

1. Treat superiors, associates and subordinates with respect, being courteous and civil in their relationships with one another at all times.

SHERIFF'S ORDER 11.4.5.0 (effective date August 29, 2011)

PROHIBITION OF DISCRIMINATION AND HARASSMENT/ SEXUAL HARASSMENT IN THE WORKPLACE, in its entirety, including but not limited to, the following subparts:

II. POLICY

Employees of the CCSO are expected to treat others with dignity and mutual respect at all times and it is the right of every CCSO employee to experience a non-hostile work environment free from discrimination and harassment/ sexual harassment. Discrimination and harassment, either unlawful or inappropriate in the view of this policy, based on any factors listed in Section I, is forbidden and subject to disciplinary action, up to and including termination of employment. The CCSO shall continue to maintain a zero tolerance policy for discrimination and harassment/ sexual harassment. Any person found to have engaged in discrimination and harassment/ sexual harassment shall be terminated.

V. DEFINITIONS

- G. Harassment/ Sexual Harassment- Unsolicited, offensive and/or retaliatory behavior, either verbal, physical or written, that denigrates or shows hostility or aversion towards an individual or his/her relatives, friends or associated due to his/her ethnicity, race, sex/gender, color, religion, national origin, ancestry, marital status, age, sexual orientation, gender identity, health status, disability or an Employee's exercise of his/her constitutional or statutory rights. This includes sexual harassment involving unwelcome, unwanted or offensive sexual advances, requests for sexual favors and other physical, verbal or written conduct of a sexual nature. Sexual harassment can occur of women by men, men by women and between members of the same sex.

Harassment/sexual harassment may occur when submission to or rejection of such conduct is made, implicitly or explicitly, a term or condition of employment, or the basis for an employment action or such conduct has the purpose or effect of substantially interfering with an employee's work performance or creating an intimidating, hostile or offensive work environment.

2. Sexual harassment may include, but is not limited to:
 - a. Unwelcome, unwanted, or offensive touching or physical contact of a sexual nature such as: closeness, impeding, or blocking movement, assaulting or pinching; gestures; innuendos; teasing, jokes, and other sexual talk; intimate inquiries; persistent unwanted courting; sexist put-downs or insults; epithets; slurs; or derogatory comments....

VIII. DISCIPLINE

- A. Any employee found to be in violation of this policy may be subject to disciplinary action, up to and including termination of employment.
- B. Any employee found to have engaged in discrimination, harassment/ sexual harassment, or retaliation in violation of this policy, either considered unlawful or inappropriate in the view of this policy, shall be subject to disciplinary action, up to and including termination of employment. All discipline shall be in accordance with any applicable CBA.

X. APPLICABILITY

- A. This Sheriff's Order is applicable to all sworn, non-sworn, civilian CCSO employees and interns.

Furthermore the Respondent was charged with violating the Rules and Regulations of the Cook County Sheriff's Merit Board specifically:

COOK COUNTY SHERIFF'S DEPARTMENT MERIT BOARD RULES AND REGULATIONS

Article X, Paragraph B

No Police Officer of Cook County Sheriff's Police Department, Correctional Officer of the Cook County Department of Corrections or any Deputy Sheriff of the Cook County Sheriff's Court Services Department shall:

- 3. violate any of the general orders, special orders, directives, or rules and regulations of the Cook County Sheriff's Office.

Issues Presented:

Whether the actions of the Respondent violated any of the General Orders and Rules and Regulations set forth above and what discipline is warranted if a violation occurred.

Resolution of Issues:

We the Board find that Respondent Cesar Valdez, Star 10698, did violate the above mentioned Rules and Regulations and General Orders of the Cook County Sheriff's Department as well as the above mentioned Cook County Sheriff's Department Merit Board Rules and Regulations.

Findings of Fact

An evidentiary hearing was held on June 30, 2014. Present was the Sheriff through counsel as well as the Respondent and Respondent's counsel. Testimony was taken from witnesses called on behalf of the Sheriff and Respondent. The parties had four joint Exhibits numbered #1 thru #4 that were admitted into evidence. The Sheriff admitted Exhibits #1 and #2 into evidence and Respondent admitted Exhibits #1 into evidence.

The Sheriff called [REDACTED] as its first witness. Deputy [REDACTED] is a deputy sheriff that was working at the Juvenile Court on December 24, 2012. Deputy [REDACTED] testified that on the 24th of December 2012 she observed an unusual incident, which she characterized as horseplay, between Deputy [REDACTED] and Respondent Valdez outside the security office. Deputy [REDACTED] testified that she heard Deputy [REDACTED] ask Deputy [REDACTED] for a kiss and that Deputy [REDACTED] told Deputy Valdez to stop, which he did not. Deputy [REDACTED] testified that she entered the security office and a couple of minutes later [REDACTED] and Valdez entered the same security office and Valdez was still holding onto Deputy [REDACTED]. Deputy [REDACTED] told the court that Deputy [REDACTED] and Deputy [REDACTED] were also in the security office and that she made a signal to Deputy [REDACTED] to intervene. At that point Deputy [REDACTED] got in between them and then they separated and that they both walked out of the office.

The second witness that the Sheriff called was Deputy [REDACTED]. Deputy [REDACTED] testified that Deputy Valdez was grabbing Deputy [REDACTED] and that Deputy [REDACTED] told Deputy Valdez to let her go because she needed to go to the bathroom. Deputy [REDACTED] testified that Deputy Valdez did not initially let Deputy [REDACTED] go and that he did not let her go until he stepped in between them. Deputy [REDACTED] testified that once he stepped in between them, they separated and they both left the security office.

The third witness for the Sheriff was Sergeant [REDACTED] who testified that he was at the command post on December 24, 201 and around 3:40pm Deputy [REDACTED] ran up to the desk crying stating that she had to go. Sergeant [REDACTED] testified that he handed Deputy [REDACTED] the sign-out sheet and that he was worried because Deputy [REDACTED] seemed distraught but that he did not have the opportunity to talk to her because she left.

The Sheriff called Investigator [REDACTED] of the Office of Professional Review who testified that she conducted an investigation relating to allegations made against Deputy Valdez. Investigator [REDACTED] testified that the substance of the case against Deputy Valdez was that he attempted to kiss Deputy [REDACTED] in the hallway, that he grabbed her arms and prevented her forward movement, and that he held on to her as she pulled him down the hall and into the security office. Investigator [REDACTED] then summarized what Deputy [REDACTED] told her about the allegations against Deputy Valdez, testified as to what she found out interviewing Deputy [REDACTED], Deputy [REDACTED] and Sergeant [REDACTED]. Investigator [REDACTED] then testified that she interviewed Deputy Valdez, at which point counsel for Deputy Valdez stipulated to his statement to OPR in which he admitted to grabbing Deputy [REDACTED] and not allowing her to go until Deputy [REDACTED] got in between them.

The Sheriff then called Deputy [REDACTED] who testified that Deputy Valdez grabbed her, tried to kiss her, and would not let her go until Deputy [REDACTED] got in between them.

Respondent called Lieutenant [REDACTED] who testified that Deputy Valdez works underneath him and that he is a good employee. Lieutenant [REDACTED] also testified that Deputy [REDACTED] works underneath him and that she told him that she did not want to file a sexual harassment complaint against Deputy Valdez regarding the December 24, 2012 incident. Respondent then called Deputy [REDACTED], Deputy [REDACTED] and Deputy [REDACTED] who all testified that they had worked with

Deputy Valdez and that they believed him to be a good, hard worker but were not around Deputy Valdez at the time of this alleged incident.

Respondent then called Deputy [REDACTED] who testified that he has known Deputy Valdez for about ten years and that on December 24, 2012 he observed the incident between Deputy Valdez and Deputy [REDACTED]. Deputy [REDACTED] testified that Valdez and [REDACTED] seemed to "be playing" and that [REDACTED] was giggling the whole time until Deputy [REDACTED] came into the office. At that time Deputy [REDACTED] testified that he asked Deputy [REDACTED] if she was okay because she was "acting weird." The next and last witness for Respondent came from Sergeant [REDACTED] who testified that he was Deputy Valdez's supervisor and in his view Deputy Valdez was an excellent worker and that he never had to discipline him although he was not present on December 24, 2012 to witness the alleged incident.

Conclusions of Law

Based on the evidence presented and after assessing the credibility of the witnesses and the weight to be given the evidence in the record, The Board finds that Respondent did violate Sheriff's Order 11.2.20.0 Rules of Conduct II, III, VI B(1), (2) and (12), VI C (1); Sheriff's Order 11.4.5.0 Prohibition of Discrimination and Harassment/Sexual Harassment in the Workplace II, V (G), (2) a.; VIII Discipline A, B and, X Applicability A; Cook County Sheriff's Department Merit Board Rules and Regulations Article X, Paragraph B.

Wherefore, based on the foregoing, it is hereby ordered that the Respondent Cesar Valdez terminated effective March 13, 2014.

Cesar Valdez #1753

[REDACTED]
James P. Nally, Chairman

[REDACTED]
Brian J. Riordan, Board Member

[REDACTED]
John R. Rosales, Board Member

[REDACTED]
Vincent T. Winters, Board Member

[REDACTED]
Byron Brazier, Vice-Chairman

[REDACTED]
John D. Alicandro, Secretary

[REDACTED]
Kim R. Widup, Board Member

[REDACTED]
Jennifer E Bae, Board Member

Date March 5, 2015